IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

AND
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 4337 of 2003

Between:

1 M/s.Padmapriya Cements, Sattivada Village, Gara Mandal, Srikakulam

Dist., rep.by its Managing Partner - Kurada Prasada Rao, S/o.Vasudeva

Rao, R/o.Kalliri Veedhi, Srikakulam.
2 Korada Manorama, W/o.Korada Prasada Rao,
Partner M/s.Padmapriya Cements, resident of Polla Sandhu,
Poorna Market, Visakhapatnam.
3 Doki Badrinarayana, S/o.D.Anadi, Partner M/s.Padmapriya Cements,

resident of Polla Sandhu, Poorna Market, Visakhapatnam.
4 Doki Anandi, S/o.late Appalanarasimhulu,
Partner M/s.Padmapriya Cements, resident of Polla Sandhu,
Poorna Market, Visakhapatnam.

..... PETITIONERS

AND

1 Commercial Tax Officer, Srikakulam.
2 Dy.Commercial Tax Officer, Srikakulam.
3 Dy.Commissioner of Commercial Tax, Vizianagaram.
4 The Commissioner of Industries, Govt.of A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the respondent in demanding the payment of sales tax for the assessment years 1997-98 and 1998-99 even though exemption has been

granted by the Commissioner of Industries in File No.10/1/8/0215 dated -4-1998 as illegal arbitrary and consequently direct the respondents to raise the attachment of the properties belonging to the petitioners.

Counsel for the Petitioners: MR.O.MANOHER REDDY

Counsel for the Respondent Nos.1 to 4: SPL GP FOR TAXES

The Court made the following

ORDER: (per the Hon'ble Sri Justice Bilal Nazki.J)

Heard learned counsel for the parties.

Counter is filed.

In this writ petition, the petitioners prayed a writ of *mandamus* declaring the action of the respondents in demanding the payment of sales tax for the assessment years 1997-98 and 1998-99 as illegal, although there was an exemption granted by the Commissioner of Industries by a certificate dated 07.04.1998.

Respondents have filed their counter, in which, they have stated that the assessments made against the petitioners for the years 1997-98 and 1998-99 have become final and they have not been challenged before any appropriate authority. It is also stated that the petitioners were given incentives, including the incentive of sales tax exemption, which had to be availed between 22.10.1997 and 21.10.2004. The Certificate accordingly was issued by the Commissioner of Industries on 07.04.1998, subject to the six conditions mentioned in the Eligibility Certificate. These conditions were violated and even the production was stopped.

Notices were given to the petitioners by the competent authority and a consequential order of cancellation of the Certificate was passed on 30.03.2001, which was also served on the first petitioner. In view of the fact that the Certificate has already been cancelled, by which the exemption had been granted to the petitioners and in view of the fact that the assessments made have become final, we do not think there is any scope for this Court to interfere in the matter, particularly when the cancellation of the Certificate is not challenged.

The writ petition is accordingly dismissed. No order as to costs.

(BILAL NAZKI. J)

---------- (S. ANANDA REDDY. J)

Date: 26.10.2004

KsId

To

1 Commercial Tax Officer, Srikakulam.
2 Dy.Commercial Tax Officer, Srikakulam.
3 Dy.Commissioner of Commercial Tax, Vizianagaram.
4 The Commissioner of Industries, Govt.of A.P., Hyderabad.

5 Two CCs to Spl GP for Taxes, High Court buildings, Hyderabad

(OUT)

6 Two CD copies.